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NO. 80-1822

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

HAROLD ANCLE THORNBERRY,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

SUPPLEMENTAL PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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SUPPLEMENTAL QUESTION PRESENTED FOR REVIEW

ARE A DEFENDANT'S FIFTH AMENDMENT OR SIXTH AMENDMENT RIGHTS VIOLATED UNDER CIRCUMSTANCES WHERE FEDERAL AGENTS, USING AN UNDERCOVER EMPLOYEE, SURREPTITIOUSLY INITIATE AND RECORD A NUMBER OF NON-CUSTODIAL INTERROGATIONS AFTER THAT DEFENDANT, HAVING BEEN GIVEN *MIRANDA* WARNINGS, HAS FORCED TERMINATION OF ALL CUSTODIAL QUESTIONING BY CLEARLY INDICATING A DESIRE NOT TO BE INTERROGATED?

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SUPPLEMENTAL CONSTITUTIONAL PROVISIONS

Amendment Five:

> "No person . . . shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law . . ."

Amendment Six:

> "In all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense."

SUPPLEMENTAL STATEMENT OF THE CASE

On March 24, 1978, the Federal Bureau of Investigation outfitted James Thomas, a paid "consultant," with a body recorder and transmitter. Thomas, as part of an FBI investigation, had ingratiated himself with the Defendant Thornberry and had become Thornberry's regular gin rummy partner. As part of the investigation, Thomas was instructed by the FBI to record his conversations with Thornberry.

On March 30, 1978, the FBI, assisted by Covington Police, in furtherance of the same investigation, executed a search warrant on the building at 616 Washington Street, Covington, Kentucky. Before the search, Agents Behan and Conley went to Thornberry's apartment and asked him for a key to the Washington Street building. Thomas, who was already present in Thornberry's apartment, recorded this conversation. In the search, the FBI seized business records and other material alleged to be evidence of gambling.

After the search, the same two Agents brought the return on the search warrant to Thornberry who was still with Thomas. This conversation between the FBI Agents and Thornberry was also recorded by Thomas. The Agents told Thornberry they wanted to question him and advised him of his *Miranda* rights by presenting him with a printed form listing all of those rights. (App. 2-3) Thornberry clearly indicated he did not want to talk with the agents. (App. 3) The two Agents stopped their questioning, served Thornberry with a Subpoena to appear before a Federal Grand Jury, and left him with Thomas. Thomas stayed behind with Thornberry and recorded conversations on that day, and on the subsequent day, in which Thornberry made incriminating statements. (App. 1-15) Over

objections grounded in the fifth and sixth amendments, the content of these conversations was admitted against Thornberry at trial.

REASONS FOR GRANTING CERTIORARI ON SUPPLEMENTAL QUESTION PRESENTED FOR REVIEW

THE DECISION OF THE COURT OF APPEALS FOR THE SIXTH CIRCUIT UPHOLDING ADMISSION OF RECORDED CONVERSATIONS AGAINST PETITIONER IS IN CONFLICT WITH THE DECISIONS OF THIS COURT IN EDWARDS v. ARIZONA, — U.S. —, 49 U.S.L.W. 4496 (NO. 79-5296) (DECIDED MAY 18, 1981); MICHIGAN v. MOSLEY, 423 U.S. 96 (1975); MIRANDA v. ARIZONA, 384 U.S. 436 (1966); ESCOBEDO v. ILLINOIS, 378 U.S. 478 (1964); MASSIAH v. UNITED STATES, 377 U.S. 201 (1964).

A. Petitioner's Fifth Amendment Rights, As Developed In Edwards v. Arizona, Michigan v. Mosley, and Miranda v. Arizona, Were Violated.

Thornberry was informed of his fifth amendment rights by FBI agents and he invoked those rights by refusing to speak with the agents. (App. 3) Ostensibly, the FBI honored Thornberry's invocation of his rights when the two persons who had identified themselves as FBI agents left Thornberry's apartment; however, a paid informer/consultant, James Thomas, remained behind, wired for sound, and engaged Thornberry in conversation in incriminating areas. (App. 3-15) No attempt was made to ascertain whether Thornberry waived the *Miranda* rights

he had invoked just moments before. In fact, Thomas remained behind with Thornberry in order to circumvent Thornberry's assertion of his *Miranda* rights.

Once *Miranda* warnings have been given to an accused citizen, the interrogators must "scrupulously honor" the invocation of those rights. *Michigan* v. *Mosley,* 423 U.S. 96 (1975).

> If . . . he [the accused citizen] indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking, there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him.

Miranda v. *Arizona,* 384 U.S. 436, 444-45 (1966).

In *Mosley,* there was a delay of two hours between the accused citizen's assertion of his rights prior to an interrogation in reference to one crime and commencement of another interrogation by another officer in reference to another crime. The *Mosley* Court held that the prohibition of questioning after the assertion of the right to remain silent did not extend for an indefinite period and that questioning could resume so long as the assertion of the right is "scrupulously honored." *Mosley,* 423 U.S. at 103-04. In *Mosley,* each interrogator read *Miranda* warnings prior to interrogation and there was a two hour gap between interrogations. In the case at hand, the interrogation of Thornberry by Thomas began as soon as the other FBI agents left the room and continued over into the next day.

In the recent case of *Edwards* v. *Arizona,* this Court held that the *Miranda* Court meant what it said — if an accused indicates a desire to remain silent, then interrogation must cease, and if an accused indicates a desire for counsel prior

to interrogation, then counsel must be provided before interrogation may continue. *Edwards* v. *Arizona,* — U.S. —, 49 U.S.L.W. 4496, 4497-98 (No. 79-5269) (decided May 18, 1981). The *Edwards* Court grounded its decision on the fifth amendment, specifically refusing to deal with a sixth amendment right to counsel issue posed by the Petitioner in that case. *Edwards,* — U.S. at —, 49 U.S.L.W. at 4497, n. 7. Fifth amendment rights include the right to refuse to incriminate oneself and the right to have counsel present at interrogation.

The *Edwards* Court also required that, once the fifth amendment right to counsel was invoked, there must be proof that the accused voluntarily, knowingly, and intelligently waived that right. *Edwards,* — U.S. at —, 49 U.S.L.W. at 4497. Proof that the accused responded to further custodial interrogation is insufficient proof of waiver.

Once informed of his fifth amendment rights as an accused, Thornberry refused to speak with the FBI agents. After the agents left the premises in honor of Thornberry's assertion of his rights, the FBI's paid informer interrogated Thornberry by engaging him in conversation in incriminating areas. Regardless of its form, interrogation is the deliberate elicitation of incriminating information and statement from an accused. *Brewer* v. *Williams,* 430 U.S. 387, 400 (1977); *Miranda* v. *Arizona,* 384 U.S. 436, 461 (1966); *Massiah* v. *United States,* 377 U.S. 201, 206 (1964). "The term 'interrogation' under Miranda refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect." *Rhode Island* v. *Innis,* 446 U.S. 291, 301 (1980) (footnotes omitted). Whether

Thomas' deliberate elicitation of incriminating statements was as a result of a classic question and answer interrogation or was a surreptitious elicitation is "constitutionally irrelevant." *Brewer,* 430 U.S. at 400-402. *See,* Kamisar, "*Brewer* v. *Williams, Massiah,* and *Miranda*: What is Interrogation? When Does It Matter?" 67 Geo. L.J. 1-101 (1978). It was for the deliberate purpose of eliciting and recording incriminating information that Thomas ingratiated himself with Thornberry and remained with Thornberry after the FBI agents left the room.

Thornberry invoked his rights under the fifth amendment and that invocation was circumvented by surreptitious interrogation by a paid FBI informant. In contravention of *Michigan* v. *Mosley,* the FBI did not scrupulously honor Thornberry's invocation of his rights. The FBI paid the informant for the purpose of defying the invocation of those rights. Over eighteen hours of recorded conversation, and untold time spent by the informant in endearing himself to Thornberry, culminated in the conversations that were recorded after Thornberry invoked his fifth amendment rights and that contained statements by Thornberry incriminating himself. No proof was presented at trial that Thornberry knowingly, intelligently, or voluntarily waived the rights he invoked; rather, the recorded conversations show that there was no gap between Thornberry's refusal to speak to the FBI and his conversations with Thomas.

Among the fifth amendment rights invoked by Thornberry's refusal to speak with the FBI is the right to have counsel present at interrogation. In contravention of *Edwards* v. *Arizona,* no counsel was present at Thornberry's continued interrogation and Thornberry did not waive the right to have counsel present. Simple response to further interrogation by Thornberry, even though voluntary, did

not constitute a knowing and intelligent waiver of the rights he had previously invoked.

In this case, the FBI has been allowed, by the holdings of the lower court, to circumvent the holdings of this Court in *Edwards* v. *Arizona, Michigan* v. *Mosley,* and *Miranda* v. *Arizona.* By remaining with the accused after he invoked his fifth amendment rights, the FBI was not merely investigating a case, but was deliberately eliciting incriminating information from the accused.

B. Petitioner's Sixth Amendment Rights, Which Were Developed In Massiah v. United States And Escobedo v. Illinois, Were Violated.

By the time the FBI Agents presented Thornberry with the printed *Miranda* warnings, they had focused on him as an accused in their investigation of criminal activity. The FBI had placed a paid informant in the presence of Thornberry who was wired for sound to record conversations in which he elicited incriminating information from Thornberry. The FBI had obtained the key to the building at 616 Washington Avenue from Thornberry and had already searched the building. The FBI presented the return on the Warrant to Thornberry, even though the building was rented to other persons and they were occupying the building. After Thornberry refused to speak with the Agents on the issues of this case, they presented him with a Subpoena to appear before a Federal Grand Jury investigating criminal activity in the area.

In *Escobedo* v. *Illinois,* 378 U.S. 478 (1964), the Supreme Court held that when an investigation of criminal activity had focused on one person, when the investigation had shifted from general to accusatory against one person, then refusal to honor that person's request to tremain silent or for an attorney was a violation of the sixth amendment

right to counsel and the fifth amendment right to remain silent. Escobedo asked for his attorney after being questioned by police. Even though his attorney was in the police station house, the police refused to comply with that request.

As noted by Justice Rehnquist, notwithstanding the *Miranda* decision, *Escobedo's* holding is still good law, although it should not be broadly construed. *Michigan* v. *Tucker,* 417 U.S. 433, 438 (1974). The *Escobedo* Court built on the earlier holding in *Massiah* v. *United States* that, under the sixth amendment, an accused is entitled to counsel when adversary criminal proceedings have begun. *Massiah,* 377 U.S. 201 (1964). *Escobedo* held that when the investigation of a crime had focused on one individual, that person "had, for all practical purposes, already been charged . . ." *Escobedo,* 378 U.S. at 486.

In *Massiah,* the Court suppressed statements of an accused that were obtained by a friend of the accused who was working for the Government and wore a hidden microphone. The accused in *Massiah* had been indicted and had obtained counsel at the time his friend elicited and recorded the incriminating statements. The *Escobedo* decision extended the protection established by *Massiah,* against self-incrimination and the right to counsel, to times prior to the formal institution of charges.

In the recent case of *Edwards* v. *Arizona,* this Court held that once fifth amendment rights had been asserted, they could be validly waived only on proof that there was a voluntary relinquishment of each right known to the accused. *Edwards* v. *Arizona,* — U.S. —, 49 U.S.L.W. 4496 (No. 78-5269) (Decided May 18, 1981). The Court held that there were special protections for the accused in the determination of the waiver of an asserted right to counsel. *Edwards,* — U.S. —, 49 U.S.L.W. at 4497.

In the case at hand, Thornberry was informed of his rights under the *Miranda* decision, which includes the right to counsel, and refused to speak with the FBI. Since the investigation had so obviously focused on Thornberry as an accused, under the *Escobedo* decision, he also invoked sixth amendment rights to counsel by refusing to speak when informed of, among other rights, his right to counsel. Without any proof that Thornberry waived his right to counsel, he was interrogated by the paid informant in violation of his right to counsel.

Respectfully submitted,

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APPENDIX A

EXCERPTS FROM RECORDED CONVERSATIONS

Conversation Number: 5

Participants: Harold Thornberry
Special Agent Vincent W. Behan
Special Agent Patrick J. Conley
James Thomas

Date: March 30, 1978

Thomas: Yeah, I'll tell you. Well, I, I don't understand the Feds being in on this gambling, this state. I thought under the law

Thornberry: You got to close down, you got to be closed. You can't operate for thirty straight days. You can't take in so much money in one given night. You can't have so many people working for you. This is where they get you

Thomas: And he is, oh, he's been doin that

Thornberry: I don't know

Thomas: I don't either

Thornberry: I don't know. But I'm just sayin what you can't do

Thomas: Well I don't know either. Don't wanna know. Okay. Well, I just

Thornberry: I really don't know

Thomas: I, I can't understand the

Thornberry: I have never, I've never went up there

(Someone else comes in – background talk to them)

Thornberry: Yeah, come on in

Behan: Got a few minutes

Thornberry: Yeah, come on in
Behan: Alright
Conley: Was just here
Thornberry: Don't knock the door down please
Behan: You got somebody to take care of that door up there
Thornberry: A, I called and his wife said as soon as he comes in she'd call. So I'll try to get in touch with him. If not I'll get up here first thing tomorrow morning. 'cause I got a piece of plywood lying right up there that I can take up there and block up the door. Here, use this as a
Conley: You got someone up there
Thornberry: Up there?
Conley: Yeah
Thomas: Charlie
Thornberry: That's the ice man
Thomas: That's Charlie
Thornberry: That's the ice (unintelligible)
Thomas: That's Charlie
Behan: Okay, that's the inventory
Thornberry: Okay
Behan: If you will put that on the back of the, uh, search warrant
Thornberry: Okay
Behan: And give her the whole package
Thornberry: Alright, alright
Thomas: That's Charlie
Behan: Okay, I would, uh, I do want to ask you a few questions about it Harold
Thornberry: Okay, alright
Thomas: You want me to leave?
Thornberry: No, I don't care. If these guys want you to
Behan: Before I do, I just want to advise you of your rights

Thornberry: Yeah, okay
Behan: Okay?
Thornberry: Alright
Behan: Read it over
Thornberry: Alright. Why don't I just don't say nothin then I won't have to worry about nothing
Behan: Ha, ha, ha, it's your choice
Thornberry: Maybe that would be the best way to be.
Behan: Okay, I, would you care to sign that. It's just telling you that we advised, that's all it is
Thornberry: Okay, alright, okay
Behan: Okay, now do you want to talk about
Thornberry: No
Behan: The place at all. No, okay
Thornberry: What the hell did I do with that, that thing you gave me. Oh, here it is, this is what I was looking for, staple this all together. Yeah, I'll see her, no doubt tomorrow or the next day because the rent's due
Behan: Okay Harold, this is a subpoena to appear before a Grand Jury in Lexington on the sixth
Thornberry: Uh huh
Behan: Where they will ask the questions
Thornberry: Okay, alright
Behan: Okay
Thornberry: Alright, okey doke, see what the hell day is the sixth
Conley: Thursday, I think
Thornberry: Monday
Conley: Monday
Thornberry: Yeah, in fact it's Monday a week I guess it is, yeah. No hell, I'm lookin at March ain't I. We wanna look at April. A, the sixth is Thursday. Right
Behan: Right
Thornberry: Uh huh, yeah

Behan: Okay
Thornberry: Okay
Behan: Alright
Thornberry: Okay, alright
Conley: Good night Harold
Thornberry: Uh huh, I'll get that taken care of tonight or tomorrow morning
Behan: Alright
Thornberry: Okay, I own the property they asked me who rents it and this kind of stuff that what they (unintelligible).
Thomas: Three, six, eleven
Thornberry: Oh hell (unintelligible)
Thomas: Motherfuck that shit, buddy I should have stayed in Metamora

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Conversation Number: 6

Participants: Harold Thornberry
Harry Seiter
James Thomas

Date: March 30, 1978

Thomas: Who is this guy?
Thornberry: Jim, I don't know
Thomas: Oh
Thornberry: Fuck, I don't know who these guys are. I don't know nothing about them, they're FBI Agents, that's all I know about 'em. I don't know who they are and I don't give a fuck who they are
(Knock on door)
Seiter: Hello
Thomas: Hello Harry, by God, how are you?

Seiter: Hey I'm comin up that Goddamn place
Thomas: I'll buy, I'll buy you chicken
Seiter: I'm tearin that fuckin place apart
Thomas: Don't do anything like that
Seiter: I'm gettin all drunk and I'm raisin hell
Thomas: Damn
Seiter: What did I tell you?
Thornberry: What's that
Seiter: You just had visitors didn't you
Thornberry: Well sure. Yeah, yeah, they raided Howard's place
Seiter: I know they did. What did they find?
Thornberry: I don't know
Seiter: Did they get your game?
Thornberry: No, here's what they found. I'm subpoenaed for the seventh of next month
Seiter: The seventh
Thornberry: Yeah, it's on Thursday. Here's what they found
Seiter: The seventh ain't on no Thursday. The seventh is on a Friday
Thornberry: Or it's the sixth. The sixth is on a Thursday
Seiter: Bowman got a subpoena to go the seventh
Thornberry: That's what they found up there
Seiter: Playing cards
Thomas: It's your throwaway, Thornberry. A diamond run, a diamond run
Thornberry: They kicked the back door in and asked me if I can get it fixed. I told them I didn't kick it in
Seiter: That's what I would have told them. Said you get it fixed
Thomas: Go ahead, I can't stop you. I can't stop you, Gin

Thornberry: Twenty-nine
Seiter: They didn't get much did they
Thornberry: Address book they said. Telephone address book
Seiter: Is this your subpoena?
Thornberry: Uh
Seiter: Oh that's the search warrant
Thornberry: Yeah they wanted to talk to me and I said, I said I don't wanna talk
Thomas: He just flat told them no
Seiter: I don't blame him
Thornberry: I said I just don't want to talk to you
Thomas: Oh, by the way, congratulations. On the Colonel
Seiter: They're trying to take it from, all the time
Thomas: Oh bullhockey, they can't do that. That's as legal as the day is long
Thornberry: They said something about Howard renting off me. I said Howard don't rent off me
Seiter: I wouldn't have even told them that. You have to contact my attorney first before you speak to me, men
Thomas: How is Abe? Have you seen him?
Seiter: He's alright. He don't do too good
Thornberry: Nine —
Thomas: Oh, son of a
Seiter: You know, I seen them two fuckers getting in their car, they never said one word to me
Thornberry: They came down here, I was next door and they asked me for a key. They said, uh, we want to go up and look in Donnelly's place
Thomas: Thirty-one, forty, fifty
Thornberry: I said, uh, Donnelly's place? They said yeah. I said nobody by the name of Donnelly rents

off me. They said 616 Washington, I said you mean Mary Ann Noel. I said I don't have a key for it. So then we went up to Pat (unintelligible) go up and eat at the, the German joint and there they were. Then they called me over and said you sure you don't have the key for it and I said no, they said well how you want us to go in, through the window or through the door. I said it makes no difference to me how you go through. Ha, ha, ha

Seiter: That's what I'd of told them

Thornberry: I don't give a fuck

Thomas: Fifty points there. You didn't even give me a damn chance that time

Seiter: Jim, you're trying to look like one of them fuckin hillbillies up there in Indiana, ain't you?

Thomas: Oh, I got married, you know that Harry?

Seiter: No

Thomas: And a, a my wife, I don't know what's got into her, she just swears up and down I should wear a beard. So I'm doin it for her because she's got the money

Seiter: Don't hurt the image none does it?

Thomas: No, it helps the image. But I, she, she's the one that carries the money and since she carries the money I

Thornberry: You listen to her

Thomas: I listen

Seiter: You're hidin a little for old Jim though ain't cha

Thomas: Huh?

Seiter: You're hiding a little for old Jim ain't you

Thomas: About the only chance I get every dime I get he takes it from me. He don't never give me a chance

Seiter: Well lose her money in the Goddamn game. Say Honey I lost your money

Thornberry: Yeah that right, that's right, tell him you're playin for her

Thomas: I did but I lost

Seiter: Boy Jim I saw them pricks out there, they didn't say nothin about that up there, I just played dumb and went on

Thornberry: Yeah they had about twelve or fifteen of them up there

Seiter: Was there that many?

Thornberry: Yeah

Seiter: Well they was really gonna do a big thing wasn't they

Thornberry: Yeah

Seiter: Well that tells you they didn't have an inside man

Thornberry: Huh?

Seiter: That tells me they didn't have an inside man, if they had that many people to take it off and nobody in there

Thornberry: That place was bare. They weren't gonna find anything. Really unloading aren't you?

Thomas: Oh don't you you think it's about time

Thornberry: Yes, it might be too late

Thomas: Could be. Deal the card

Thornberry: Can't help it

Thomas: I can't, uh

Thornberry: Hey (unintelligible) big Al Meyers is up there and a they said, a well which door should we knock down, which is the easiest door. Well I know that side door, that door is solid. That fuckin thing. I believe this will be the easiest. Just, uh, you know, put your shoulder up and hit that motherfucker

Thomas: He bounced back about four foot

Thornberry: That motherfucker. He bounced back, he said woooo. I said try it again. He hit that son of a bitch again and it didn't budge

Seiter: So he's in on this fuckin act with them cocksuckers
Thornberry: Oh, I know he is, and he says oooh, so then he goes back in the back door was an old door, the glass, the glass was out so he just kicked it and he broke it right in half. You know. I had to laugh how Al bounched off that door twice
Thomas: That tickled him
Seiter: (Unintelligible)
Thomas: Did it upset him?
Seiter: (Unintelligible) in that department (unintelligible) and everything
Thornberry: Oh yeah, Gin (unintelligible)
Thomas: Son of a bitch, son of a bitch. Oh, I'm afraid to throw you a six
Thornberry: Six
Thomas: Fourteen
Thornberry: Twenty-five, thirty, thirty-nine
Thomas: Thirty-nine
Thornberry: One twenty-four
Thomas: A, a new leader in the pack
Seiter: I'm gonna get out of here I'm gonna let you guys play your fuckin cards
Thornberry: Okay Harry
Thomas: Harry, good to see you again
Seiter: Sometime
Thomas: Hey listen, hey listen
Thornberry: Pat says stop up and get those beer cans for you
Seiter: Huh?
Thornberry: Pat says to stop up and get those beer cans for you
Thomas: Hey, come on up and bring the family and I'll buy you
Seiter: You got a card with you?

Thomas: No, I don't have no card, I can't, you know up there
Seiter: Harold knows how to get there and everything don't he
Thornberry: Oh yeah
Thomas: Yeah, it's a nice place. I bought me a home and I
Seiter: You there all day?
Thomas: Everyday. Everyday. I just get away a couple of days a week to come down here
Seiter: About two weeks, you always there on a Sunday?
Thomas: Always there on a Sunday
Seiter: In about two weeks I'll come by
Thomas: Come on up and I'll give you the grand tour
Seiter: You can show me the town
Thomas: I'll show you the town. Thank you Harry
Thornberry: Good seein you again
Thomas: Alright, it's good seeing you
Thornberry: So long Harry. Okay baby
Thomas: I wonder how come he didn't know anything about it until just right out there. Huh?
Thornberry: Shit. He played the dummy with Schwartz
Thomas: Well that's good, he should, he should

Conversation Number: 7
Participants: Harold Thornberry
John Wardia
James Thomas
Date: March 30, 1978

Wardia: Hi Jim
Thomas: Hi John, how are you?
Wardia: Did you bring all your friends with you Goddammit

Thomas: I ain't got no friends
Wardia: I seen all them guys come in (unintelligible)
Thornberry: That was the FBI, they raided Howard. Yeah they came down and wanted me to open up the door for them and I said I don't have a key (unintelligible)

Conversation Number: 8
Participants: Harold Thornberry
James Thomas
Date: March 31, 1978

Thornberry: I know, but let me explain something
Thomas: Okay, all right
Thornberry: There's only two (unintelligible) just two individuals. I'm not worried about these individuals. In fact it was at different times so if they would cop it would be my word against theirs. Don't make any difference, there's no proof
Thomas: It takes one to indict, one to indict and two to convict, now Harris told me that, I remember that
Thornberry: All right now, we know that, I'm not worried about that. Now, as far as the guys (unintelligible) bagman, that don't mean nothin either, cause they could come back in here or come down there and find something just laying on the desk. That don't make any difference. There's nothing to that, see? Now as far as the joint up there, they can't convict me on running a gambling joint cause I had it leased out to Mary Ann Noel
Thomas: Yeah, I know that. You told me that last week
Thornberry: And she gave me the rent and paid me by check. She has her cancelled checks to prove it. All

right. I have my rent receipts to prove it. I'm not worried about it, it's horseshit. They might try to prove that the commissioners are getting money for certain things but they have to prove it, see I'm not worried, but it might be embarrassing if one or two would cop out

Thomas: Well Bowman's the only thing I'm worried about, that

Thornberry: He wouldn't say shit

Thomas: Well he said right there in the damn paper

Thornberry: He didn't say what he was goin to say

Thomas: (Unintelligible)

Thornberry: Why would he hurt himself?

Thomas: See, if you hadn't, if you hadn't said the other Goddamn night about Bowman being, about what happened when Bowman down here (unintelligible) I wouldn't thought nothin, but when I seen that, I got

Thornberry: You don't know what you're thinking, you're just like a fuckin square reading a newspaper

Thomas: Well

Thornberry: Why would he, why would he cop out and convict himself?

Thomas: Yeah, I guess you're right, well, what if they give him immunity

Thornberry: Well so what, it's his word against mine. See. Bullshit man

Thomas: You know, I just (unintelligible)

Thornberry: I don't worry (unintelligible)

Thomas: I know that, I know that, I, I, know that

Thornberry: Just like that cop back there that wanted me to give him a pay off, Meyers, all I said was, no soap no soap. In the first place, no money changed hands and they can't get you for that

Thomas: Yeah

Thornberry: Just like the time they found my tape recorder where I had it on somebody supposed to get so much money

Thomas: I remember that

Thornberry: And they gave it to the FBI and the FBI said we can't do nothin, nothin happened. That was talk only

Thomas: (Unintelligible)

Thornberry: Yeah, they told (unintelligible) me it has to happen and they have to have more than one people there, person there. They've fucked, so fuckin many humans its pitiful and they said they were going to get me because I used federal funds to buy houses with, why I never used federal funds in my life. They just startin this shit, see, trying to get people scared, that don't scare me

Thomas: No, they don't scare, that's not what I'm worried about, it's whether they scare somebody that

Thornberry: (Unintelligible)

Female: What are you doin Harold?

Thornberry: Nothin, that's it, nothin